

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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VALERIO PABLO CHOPEN,

Plaintiff,

- against -

## ORDER

CV 2012-2269 (NGG) (MDG)

OLIVE VINE, INC., et al.,

**Defendants.**

Counsel for defendants Olive Vine, Inc. and Zaid Demis failed to appear for a conference held on March 8, 2013, a date set in an order dated February 20, 2013, and to pay a \$50 sanction to plaintiff's counsel by March 6, 2013, which was also ordered on February 20, 2013. Defendants also had failed to appear for the February 20, 2013 conference.

Both conferences were set to hear plaintiff's Motion to Compel discovery responses and to amend the caption to correct the plaintiff's name to Valerio Pablo Chopen. Ct. doc. 11. No opposition has been filed. As discussed on the record on March 8, 2013, plaintiff's motion is granted as unopposed. Hereinafter, all prior filings referring to "Pablo Valerio Chopen" are deemed corrected to refer to "Valerio Pablo Chopen" and the Clerk of the Court is respectfully requested to amend the docket sheet accordingly. Defendants must produce the requested discovery by March 29, 2013. Discovery is extended to April 30, 2013.

Counsel for defendants is reminded that once he appears for a client, he may not withdraw from a case unless he first seeks leave of the Court. See Local Civil Rule 1.4 Until leave is granted, counsel must appear at all court conferences and is responsible for responding to motions and discovery requests on behalf of his clients.

Since defendants and their counsel have not provided any explanation for their counsel's absence at two conferences nor have they paid the sanction imposed, the Court imposes an additional \$500 sanction jointly on the individual and corporate defendants and their attorney, John Wilson. This amount represents a portion of the attorneys' fees that plaintiff has undertaken in making his motion to compel and is without prejudice to plaintiff seeking the full amount of fees incurred in making the motion to compel and attendance at the two conferences at which defense counsel failed to appear. The sanction of \$500 now imposed, as well as the \$50 sanction previously imposed, must be paid by March 29, 2013 to counsel for plaintiff Valerio Pablo Chopen. However, this is without prejudice to defendants or their counsel seeking a different allocation of liability for these sanctions. Any such submissions must be filed by March 22, 2013.

Where one party fails to comply with Court orders, such conduct "can impose serious costs on adversaries, on parties to other matters before the court . . . and on the efficiency with

which the district court addresses its business." Mitchell v. Lyons Prof'l Servs., Inc., --F.3d--, 2013 WL 709645, at \*4 (2d Cir. 2013). Defendants are advised that their continued failure to comply with Court orders and their discovery obligations will result in further and more drastic sanctions. Given defendants' inaction described in plaintiff's motion to compel and counsel's failure to appear for two conference, defendants are warned that there may be grounds for the Court to strike their answer and impose a default judgment.

Plaintiff is directed to fax a copy of this Order and minute entry on counsel for the defendants and to mail a copy to the individual and corporate defendants at the address best known to counsel, along with a copy of the outstanding discovery requests.

A conference will be held on May 3, 2013 at 10:00 a.m. following the close of discovery.

**SO ORDERED.**

Dated: Brooklyn, New York  
March 11, 2013

/s/  
MARILYN D. GO  
UNITED STATES MAGISTRATE JUDGE